



DEPARTMENT OF COMMERCE

International Trade Administration

[A-557-816]

Certain Steel Nails from Malaysia: Amended Final Results of Antidumping Duty

Administrative Review; 2020-2021

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) is amending its final results in the administrative review of the antidumping duty order on certain steel nails (nails) from Malaysia for the period July 1, 2020, through June 30, 2021, to correct certain ministerial errors.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: John Drury or Emily Bradshaw, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482-0195 or (202) 482-3896.

SUPPLEMENTARY INFORMATION:

Background

On February 8, 2023, Commerce published the final results of the 2020-2021 administrative review of nails from Malaysia.¹ On February 8, 2023, Commerce received a timely filed allegation from Mid Continent Steel & Wire, Inc. (the petitioner) with regard to the calculation of the final dumping margin for respondent Region International Co., Ltd. and Region System Sdn. Bhd (collectively, Region).² Also on February 8, 2023, Commerce received

¹ See *Certain Steel Nails from Malaysia: Final Results of Antidumping Duty Administrative Review; 2020-2021*, 88 FR 8257 (February 8, 2023) (*Final Results*) and accompanying Issues and Decision Memorandum (IDM).

² See Petitioner's Letter, "Ministerial Error Comments," dated February 8, 2023 (Petitioner Ministerial Allegation Letter).

a timely filed allegation from Inmax Sdn. Bhd. and Inmax Industries Sdn. Bhd (collectively, Inmax) that Commerce made ministerial errors in the *Final Results* with regard to its calculation of the final dumping margin for Inmax.³ Based on our analysis of these allegations, we determine that we made ministerial errors, and we have made changes to the calculation of the weighted-average dumping margin for Region, Inmax, and for the non-selected respondents.⁴

Scope of the Order

The merchandise covered by the order is certain steel nails having a nominal shaft length not exceeding 12 inches.⁵ Certain steel nails include, but are not limited to, nails made from round wire and nails that are cut from flat-rolled steel. Certain steel nails may be of one piece construction or constructed of two or more pieces. Certain steel nails may be produced from any type of steel, and may have any type of surface finish, head type, shank, point type and shaft diameter. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, including but not limited to electroplating or hot dipping one or more times), phosphate, cement, and paint. Certain steel nails may have one or more surface finishes. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double, countersunk, and sinker. Shank styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted. Screw-threaded nails subject to this proceeding are driven using direct force and not by turning the nail using a tool that engages with the head. Point styles include, but are not limited to, diamond, needle, chisel and blunt or no point. Certain steel nails may be sold in bulk, or they may be collated in any manner using any material.

Excluded from the scope of this order are certain steel nails packaged in combination with one or more non-subject articles, if the total number of nails of all types, in aggregate

³ See Inmax's Letter, "Ministerial Error Comments," dated February 8, 2023 (Inmax Ministerial Allegation Letter).

⁴ See Memorandum "Ministerial Error Memorandum for the Amended Final **Error! Main Document Only.**Results of the 2020-2021 Administrative Review of the Antidumping Duty Order on Certain Steel Nails from Malaysia," dated concurrently with this notice (Ministerial Error Memorandum).

⁵ The shaft length of certain steel nails with flat heads or parallel shoulders under the head shall be measured from under the head or shoulder to the tip of the point. The shaft length of all other certain steel nails shall be measured overall.

regardless of size, is less than 25. If packaged in combination with one or more non-subject articles, certain steel nails remain subject merchandise if the total number of nails of all types, in aggregate regardless of size, is equal to or greater than 25, unless otherwise excluded based on the other exclusions below.

Also excluded from the scope are certain steel nails with a nominal shaft length of one inch or less that are (a) a component of an unassembled article, (b) the total number of nails is sixty (60) or less, and (c) the imported unassembled article falls into one of the following eight groupings: 1) builders' joinery and carpentry of wood that are classifiable as windows, French-windows and their frames; 2) builders' joinery and carpentry of wood that are classifiable as doors and their frames and thresholds; 3) swivel seats with variable height adjustment; 4) seats that are convertible into beds (with the exception of those classifiable as garden seats or camping equipment); 5) seats of cane, osier, bamboo or similar materials; 6) other seats with wooden frames (with the exception of seats of a kind used for aircraft or motor vehicles); 7) furniture (other than seats) of wood (with the exception of i) medical, surgical, dental or veterinary furniture; and ii) barbers' chairs and similar chairs, having rotating as well as both reclining and elevating movements); or 8) furniture (other than seats) of materials other than wood, metal, or plastics (*e.g.*, furniture of cane, osier, bamboo or similar materials). The aforementioned imported unassembled articles are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4418.10, 4418.20, 9401.30, 9401.40, 9401.51, 9401.59, 9401.61, 9401.69, 9403.30, 9403.40, 9403.50, 9403.60, 9403.81 or 9403.89.

Also excluded from the scope of this order are steel nails that meet the specifications of Type I, Style 20 nails as identified in Tables 29 through 33 of ASTM Standard F1667 (2013 revision).

Also excluded from the scope of this order are nails suitable for use in powder-actuated hand tools, whether or not threaded, which are currently classified under HTSUS subheadings 7317.00.20.00 and 7317.00.30.00.

Also excluded from the scope of this order are nails having a case hardness greater than or equal to 50 on the Rockwell Hardness C scale (HRC), a carbon content greater than or equal to 0.5 percent, a round head, a secondary reduced-diameter raised head section, a centered shank, and a smooth symmetrical point, suitable for use in gas-actuated hand tools.

Also excluded from the scope of this order are corrugated nails. A corrugated nail is made up of a small strip of corrugated steel with sharp points on one side.

Also excluded from the scope of this order are thumb tacks, which are currently classified under HTSUS subheading 7317.00.10.00.

Certain steel nails subject to this order are currently classified under HTSUS subheadings 7317.00.55.02, 7317.00.55.03, 7317.00.55.05, 7317.00.55.07, 7317.00.55.08, 7317.00.55.11, 7317.00.55.18, 7317.00.55.19, 7317.00.55.20, 7317.00.55.30, 7317.00.55.40, 7317.00.55.50, 7317.00.55.60, 7317.00.55.70, 7317.00.55.80, 7317.00.55.90, 7317.00.65.30, 7317.00.65.60 and 7317.00.75.00. Certain steel nails subject to this order also may be classified under HTSUS subheadings 7907.00.60.00, 7806.00.80.00, 7318.29.00.00, 8206.00.00.00 or other HTSUS subheadings.

While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Ministerial Error

Section 751(h) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.224(f) define a “ministerial error” as an error “in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial.”

The petitioner argues that Commerce mistakenly excluded certain cost records when implementing the use of quarterly costs.⁶ Specifically, the petitioner states that Commerce inadvertently excluded cost records for one quarter when calculating average costs for the

⁶ See Petitioner Ministerial Allegation Letter.

purpose of examining cost recovery.⁷ We have examined the programming language contained in the “ME Macros” SAS program, and we agree with the petitioner.⁸

Inmax argues that Commerce mistakenly used the incorrect variables for total cost of manufacturing, general and administrative expenses, and interest expenses. We agree with Inmax, and therefore, we have corrected the error.⁹

Furthermore, consistent with Commerce’s practice,¹⁰ the rate for the respondents not selected for individual examination will be the weighted-average dumping margin for Region, as the margin calculated for Region is the only rate calculated that is not zero, *de minimis*, or determined entirely on the basis of facts available.

Amended Final Results of Review

Commerce determines that the following amended weighted-average dumping margins exist for the period July 1, 2010, through June 30, 2021:

Producer/Exporter	Estimated Weighted-Average Dumping Margin (percent)
Region International Co., Ltd./Region System Sdn. Bhd.	1.66
Inmax Sdn. Bhd./Inmax Industries Sdn. Bhd.	0.00
Non-Selected Respondents ¹¹	1.66

Disclosure

We will disclose the calculation memoranda used in our analysis to parties to this segment of the proceeding within five days of the date of the publication of these amended final results, pursuant to 19 CFR 351.224(b).

Assessment Rate

⁷ *Id.*

⁸ See Ministerial Error Allegation Memorandum at 2-3.

⁹ *Id.*

¹⁰ See, e.g., *Large Power Transformers from the Republic of Korea: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Final Successor-in-Interest Determination*; 2018-2019, 86 FR 30915 (June 10, 2021) and accompanying IDM at Comment 4.

¹¹ See Appendix for the list of non-selected respondents.

Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries.¹² For any individually examined respondents whose weighted-average dumping margin is above *de minimis*, we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales, in accordance with 19 CFR 351.212(b)(1). Upon issuance of the amended final results of this administrative review, if any importer-specific assessment rates calculated in the amended final results are above *de minimis* (*i.e.*, at or above 0.5 percent), Commerce will issue instructions directly to CBP to assess antidumping duties on appropriate entries.

To determine whether the duty assessment rates covering the period were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer (or customer)-specific *ad valorem* rates by aggregating the amount of dumping calculated for all U.S. sales to that importer or customer and dividing this amount by the total entered value of the sales to that importer (or customer). Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis*, and the respondent has reported reliable entered values, we will apply the assessment rate to the entered value of the importer's/customer's entries during the POR. For the companies identified above that were not selected for individual examination, we will instruct CBP to liquidate entries at the rates established in these amended final results of review.

For entries of subject merchandise during the POR produced by any of these companies for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate such entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.¹³

¹² In these amended final results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification*, 77 FR 8101 (February 14, 2012).

¹³ See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

Consistent with its recent notice,¹⁴ Commerce intends to issue appropriate assessment instructions directly to CBP no earlier than 35 days after the date of publication of the amended final results of this review in the *Federal Register*. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during the period of review. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties did occur and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

¹⁴ See *Notice of Discontinuation of Policy to Issue Liquidation Instructions After 15 Days in Applicable Antidumping and Countervailing Duty Administrative Proceedings*, 86 FR 3995 (January 15, 2021).

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(h) and 19 CFR 351.221(b)(5).

Dated: March 8, 2023.

Lisa W. Wang,
Assistant Secretary
for Enforcement and Compliance.

APPENDIX I

List of Non-Selected Respondents

Airlift Trans Oceanic Pvt. Ltd.
Alsons Manufacturing India, LLP.
Atlantic Marine Group Ltd.
Bluemoon Logistics Pvt. Ltd.
C.H. Robinson Worldwide Freight India Pvt., Ltd.
Chia Pao Metal Co., Ltd.
Chuan Heng Hardware Paints and Building Materials Sdn. Bhd.
Come Best (Thailand) Co., Ltd.
Dahnay Logistics Pvt., Ltd.
Gbo Fastening Systems AB.
Honour Lane Logistics Sdn., Bhd.
Honour Lane Shipping Ltd.
Impress Steel Wire Industries Sdn., Bhd.
Kerry-Apex (Thailand) Co., Ltd.
Kerry Indev Logistics Pvt., Ltd.
Kerry Logistics (M) Sdn., Bhd.
Kimmu Trading Sdn., Bhd.
Modern Factory for Steel Industries Co., Ltd.
Oman Fasteners LLC.
Orient Containers Sdn., Bhd.
Orient Express Container Co., Ltd.
RM Wire Industries Sdn. Bhd.
Royal Logistics.
SAR Transport Systems Pvt., Ltd.
Soon Shing Building Materials Sdn., Bhd.
Storeit Services LLP.
Tag Fasteners Sdn., Bhd.
Tag Staples Sdn., Bhd.
Tampin Sin Yong Wai Industry Sdn., Bhd.
Teamglobal Logistics Pvt., Ltd.
Top Remac Industries.
UD Industries Sdn., Bhd.
Vien Group Sdn., Bhd.
Watasan Industries Sdn., Bhd.
WWL India Private Ltd.

